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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

NATIONAL WILDLIFE FEDERATION, et al.,

No. 3:01-cv-00640-SI

Plaintiffs,

and

STATE OF OREGON,

PLAINTIFFS' MOTION FOR
LEAVE TO FILE EIGHTH
SUPPLEMENTAL COMPLAINT

Intervenor-Plaintiff,

v.

NATIONAL MARINE FISHERIES SERVICE, U.S.
ARMY CORPS OF ENGINEERS, and U.S. BUREAU
OF RECLAMATION,

Defendants,

and

PLAINTIFFS' MOTION FOR LEAVE TO FILE
EIGHTH SUPPLEMENTAL COMPLAINT - 1 -

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NORTHWEST IRRIGATION UTILITIES, PUBLIC
POWER COUNCIL, COLUMBIA-SNAKE RIVER
IRRIGATORS ASSOCIATION, WASHINGTON
FARM BUREAU FEDERATION, FRANKLIN
COUNTY FARM BUREAU FEDERATION, GRANT
COUNTY FARM BUREAU FEDERATION,
NORTHWEST RIVER PARTNERS, CLARKSTON
GOLF & COUNTRY CLUB, CONFEDERATED
SALISH AND KOOTENAI TRIBES, STATE OF
MONTANA, INLAND PORTS AND NAVIGATION
GROUP, KOOTENAI TRIBE OF IDAHO, and STATE
OF WASHINGTON,

Intervenor-Defendants.

COME NOW plaintiffs, National Wildlife Federation, *et al.* (“NWF”), pursuant to Fed. R. Civ. 15(d) and LR 15-1(b) and (c), and for the reasons stated more fully in their supporting memorandum, respectfully move the Court for an order granting this Motion for Leave to File an Eighth Supplemental Complaint for Declaratory and Injunctive Relief.

If the Court grants NWF leave to file its proposed Eighth Supplemental Complaint, NWF and Federal Defendants agree that the Eighth Supplemental Complaint supersedes the Seventh Supplemental Complaint (ECF 996) and all prior complaints filed in this action. *See, e.g.*, LR 15-1(c).¹ In addition, if the Court grants this motion, NWF and Federal Defendants agree that no answers are required or, if the Court orders answers, the Court will provide 60 days for the United States and any Defendant-Intervenors to answer the supplemental complaint. Finally,

¹ As part of the relief awarded to NWF under the Seventh Supplemental Complaint, the Court required “Federal Defendants to disclose sufficient information to Plaintiffs regarding the planned projects at each dam during the NEPA remand period.” ECF 2194 (Apr. 3, 2017). NWF and Federal Defendants subsequently negotiated a notification process to implement this requirement, which the Court adopted. *See* ECF 2205 (May 25, 2017). Federal Defendants and NWF agree that, because Federal Defendants completed their NEPA process, the notification obligation should no longer be in effect. The attached proposed order granting this motion also clarifies that Federal Defendants are not under a continuing obligation under the above Orders regarding notification.

NWF and Federal Defendants agree to confer and work with the other parties to prepare and submit to the Court within 60 days of the Court's grant of this motion a joint status report presenting a proposed schedule for the case, including a briefing schedule for any anticipated motions, or set forth competing positions on how to proceed if they are unable to reach agreement on a schedule.

Pursuant to LR 7-1, counsel for NWF has conferred with counsel for Federal Defendants and other parties in this matter. Counsel for Federal Defendants, State of Washington, State of Oregon, State of Idaho, Northwest Power and Conservation Council, Nez Perce Tribe, Confederated Tribes of the Colville Reservation, Inland Ports and Navigation Group, Columbia-Snake River Irrigators Association, Confederated Salish and Kootenai Tribes, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of Warm Springs, and Yakama Nation have indicated they do not oppose this motion. Counsel for the State of Montana, Northwest RiverPartners, and Kootenai Tribe of Idaho have indicated they take no position on this motion. No party has indicated opposition to the motion although NWF may not have received a response regarding the motion from all parties and *amici*. All parties reserve all of their rights, claims, and defenses regarding NWF's proposed Eighth Supplemental Complaint.

In accordance with LR 15-1(d)(1), a copy of the [Proposed] Eighth Supplemental Complaint for Declaratory and Injunctive Relief is attached to this motion as Attachment A.

Respectfully submitted this 19th day of January, 2021.

/s/ Todd D. True

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